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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,998	03/26/2004	Ling Su	16055US01	8997
<div>7590 05/31/2007 CHRISTOPHER C. WINSLADE MCANDREWS, HELD & MALLOY, LTD. 34th Floor 500 West Madison St. Chicago, IL 60661</div>			<div>EXAMINER SAMS, MATTHEW C</div> <div>ART UNIT 2617</div> <div>MAIL DATE 05/31/2007</div> <div>PAPER NUMBER PAPER</div>	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/810,998

Applicant(s)

SU ET AL.

Examiner

Matthew C. Sams

Art Unit

2617

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: the arguments are not persuasive. The applicant argues that Kardach teaches only one priority level. It is the examiner's opinion that this is incorrect. Kardach clearly teaches that the DSSS channel (802.11) can have a higher or lower priority than the FHSS channel (Bluetooth) and that the FHSS channel can be higher or lower than the DSSS channel. (Pages 4-5 [0030-0031]) Further, Kardach clearly gives examples of programs and situations that would have differing priority levels (i.e. clear-to-send, beacon reception, human interface device profile, connection establishment, device discovery...). (Pages 4-5 [0030-0031]) Fig. 8 does not show a situation where both the 802.11 and Bluetooth circuits are able to transmit at the same time on a common frequency that would cause interference. Therefore, one of ordinary skill in the art would recognize that these differing programs/situations have different transmission priority levels.

With respect to the applicant's argument regarding a third transmitting priority, Kardach clearly teaches the 802.11 circuit has High and Low priorities (Page 3 [0019] and Page 5 [0030]) and the Bluetooth circuit has corresponding High (transmit immediately) and Low (transmit after delay) priorities (Page 5 [0031] i.e. not only "high" but also "higher"). In addition, Kardach teaches the Bluetooth circuit has a third priority where the transmission is terminated. (Pages 4-5 [0030] and Fig. 8 [874]) The flowchart in Fig. 8 has a relative nature, which is supported in the specification by using relative terms including "higher". (Pages 4-5 [0030-0031]) The Bluetooth circuit can have a lower priority than the 802.11 circuit (Fig. 8 [870]), with two distinct results. (Fig. 8 [872 & 874]) The two results, delay transmission or terminate transmission, are two separate and distinct priorities. Therefore, one of ordinary skill in the art would recognize that the differing programs/situations would result in one of the three priority levels (Fig. 8 [880, 872, 874]) corresponding to a solution in Fig. 8.



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